

MARYLAND DEPARTMENT OF THE ENVIRONMENT

**MARYLAND CLEAN AIR FUND
FIFTEENTH ANNUAL REPORT**

FISCAL YEAR 2003

October 1, 2003

**Prepared for the
Maryland General Assembly**

**MARYLAND DEPARTMENT OF THE ENVIRONMENT
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REQUIREMENT

This report fulfills the requirements of:

- Section 2-107(c)(3) of the Environment Article of the Maryland Code, which states:

At the end of the fiscal year, the Department shall prepare an annual report on the Maryland Clean Air Fund that includes an accounting of all financial receipts and expenditures to and from the Fund and shall:

- (i) Provide a copy of the report to the General Assembly, as provided under Section 2-1312 of the State Government Article; and
 - (ii) Upon request, make the report available to permit holders under this Title.
- Uncodified language in Section 3 of House Bill 1133 of the 1993 Session of the Maryland General Assembly, which requires an annual report on Clean Air Act program and fee implementation. This report is to:
 - (i) Detail the revenues raised by permit fees, and the expenditures of those funds, and
 - (ii) Provide information regarding the federal approval process, the effectiveness of the permitting program, and any other issue of importance to the operation of this permitting program.

SUMMARY OF REVENUES AND EXPENDITURES

The Maryland Clean Air Fund is a special revenue fund that was created by action of the 1988 General Assembly. The Fund began receiving receipts from fees and penalties on July 1, 1988. The Fund's revenues are to be used for activities under Title 2, Environment Article related to identifying, monitoring, and regulating air pollution in Maryland, including program development of these activities.

In 1993 the Maryland General Assembly adopted new fee requirements for air quality operating permits to allow a gradual increase in permit fees in order to comply with the federal Clean Air Act. The Department's revised permit fee schedule became effective on September 13, 1993. Operating permit fee revenues have therefore increased in accordance with the law and constitute the largest source of revenues to the Clean Air Fund.

In FY 2003, the Maryland Clean Air Fund provided 41% of the funding for the State's air pollution control program. Figure 1 shows that overall funding for the air program also came from the State general fund; grants from the U.S. Environmental Protection Agency; and other sources, which included reimbursable funds from the Maryland Departments of Transportation and Natural Resources, and special funds from the Oil Disaster Containment, Clean-Up and Contingency Fund.

Maryland Clean Air Fund direct expenditures in FY 2003 were approximately \$4.7 million. (See Table 1.) Most Clean Air Fund expenditures were in the Air and Radiation Management Administration (ARMA). A small portion of the Title V expenditures was related to Title V-related activities conducted by non-ARMA staff, such as attorneys within the Office of the Attorney General and engineers within the Department's Environmental Permits Service Center. (See Figure 3.)

Approximately 76% of Clean Air Fund direct expenditures in ARMA were for personnel costs. 24% of the Clean Air Fund direct expenditures in ARMA were for operating expenditures that include services, supplies, equipment, etc. (See Table 2.)

Clean Air Fund revenues are derived primarily from fees for permits and licenses issued by Air and Radiation Management Administration and from penalties for violations of air quality and asbestos laws and regulations. Table 2 shows revenues for FY 2003 from these sources. Total Clean Air Fund revenues in FY 2003 were about \$5.1 million.

Table 3 summarizes trends in Clean Air Fund revenues and expenditures over the most recent five-year period.

MARYLAND'S AIR QUALITY OPERATING PERMIT PROGRAM

Maryland has had an air quality operating permit program since 1971. Significant sources of air pollution are required to obtain a State permit to operate. Since November 1989, fees have been collected for permits to operate and have been deposited into the Maryland Clean Air Fund. During FY 2003, annual fees were collected for 461 air quality permits to operate. Table 2 shows that operating permit fees generated 84.4% of Clean Air Fund receipts in FY 2003.

Title V of the Clean Air Act, as amended in 1990, requires states to establish federally-enforceable operating permit programs approved by the U.S. Environmental Protection Agency (EPA). The Department adopted State regulations to conform to the federal regulations that appear at 40 CFR Part 70. The Department submitted program documents to EPA that describe how Maryland will comply with the federal Title V requirements. EPA published notice in the Federal Register in July 1996 granting interim approval of Maryland's program submittal. Maryland immediately implemented its Title V operating permit program. The EPA failed to grant Maryland full approval of its Title V program principally because Maryland's judicial review requirements did not meet the minimum requirements of Article III of the U.S. Constitution.

The EPA later issued a notice stating that interim program approvals nationally would expire on December 1, 2001 if states did not correct noted deficiencies. In order to correct Maryland's judicial review deficiency, a statutory change was needed, and Maryland was unsuccessful in making such a change during the 2001 legislative session. As a result, Maryland was unable to correct its judicial review deficiency by December 1, 2001. Maryland's interim approval status for the Title V program, then, automatically converted to a disapproval on December 1, 2001 and a federal Part 71 operating program took effect in Maryland.

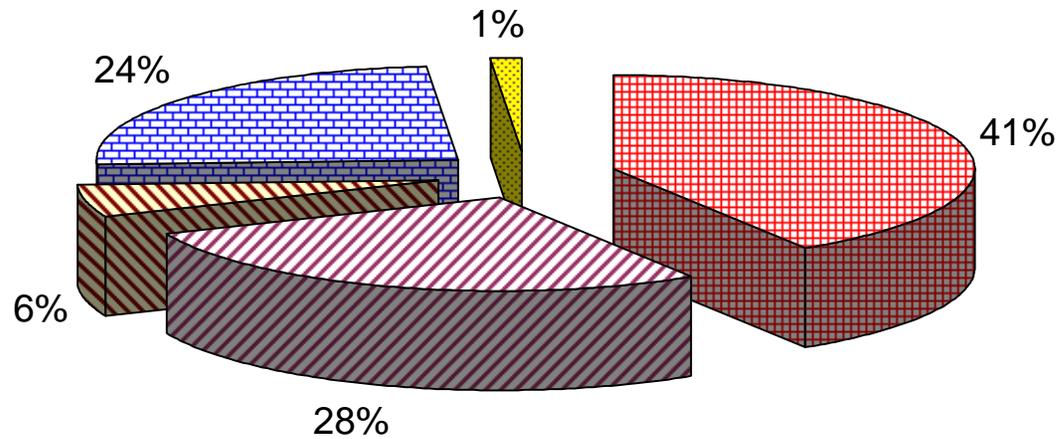
To avoid EPA taking over the Title V program on December 1, 2001, which would have caused a \$4.2 million fee revenue loss to Maryland, the Department successfully sought to have EPA delegate the operation of the Part 71 program to Maryland (a delegation agreement was signed and took effect on December 1, 2001). During the 2002 legislative session, the Department was successful in getting legislation passed that corrected the judicial review deficiencies, and was able to petition EPA in July 2002 to grant full approval of Maryland's Title V program. The EPA then published a notice in the Federal Register on September 2002 proposing full approval of the Maryland program. Full approval was granted in January 2003.

Title V mandates that permit fees be able to support the direct and indirect activities required under Title V. The adopted regulations and the level of activity associated with the Title V program will enable this mandate to be met. Effective January 1, 2000, four major power plants, previously excluded from being classified as Title V sources under the Clean Air Act, were considered to be Title V sources. Fee payments received from these sources after this date are, therefore, viewed as Title V revenues.

FIGURE 1

ARMA AIR QUALITY EXPENDITURES FISCAL YEAR 2003

Total Expenditures: \$11,596,995



MD Clean Air Fund	\$4,757,429 (41%)	Federal Funds	\$3,199,110 (28%)
General Funds	\$659,388 (6%)	Reimbursable Funds	\$2,824,396 (24%)
Other Special Funds	\$156,672 (1%)		

FIGURE 2

CLEAN AIR FUND EXPENDITURES AS A SUBSET OF TOTAL ARMA AIR QUALITY EXPENDITURES FISCAL YEAR 2003

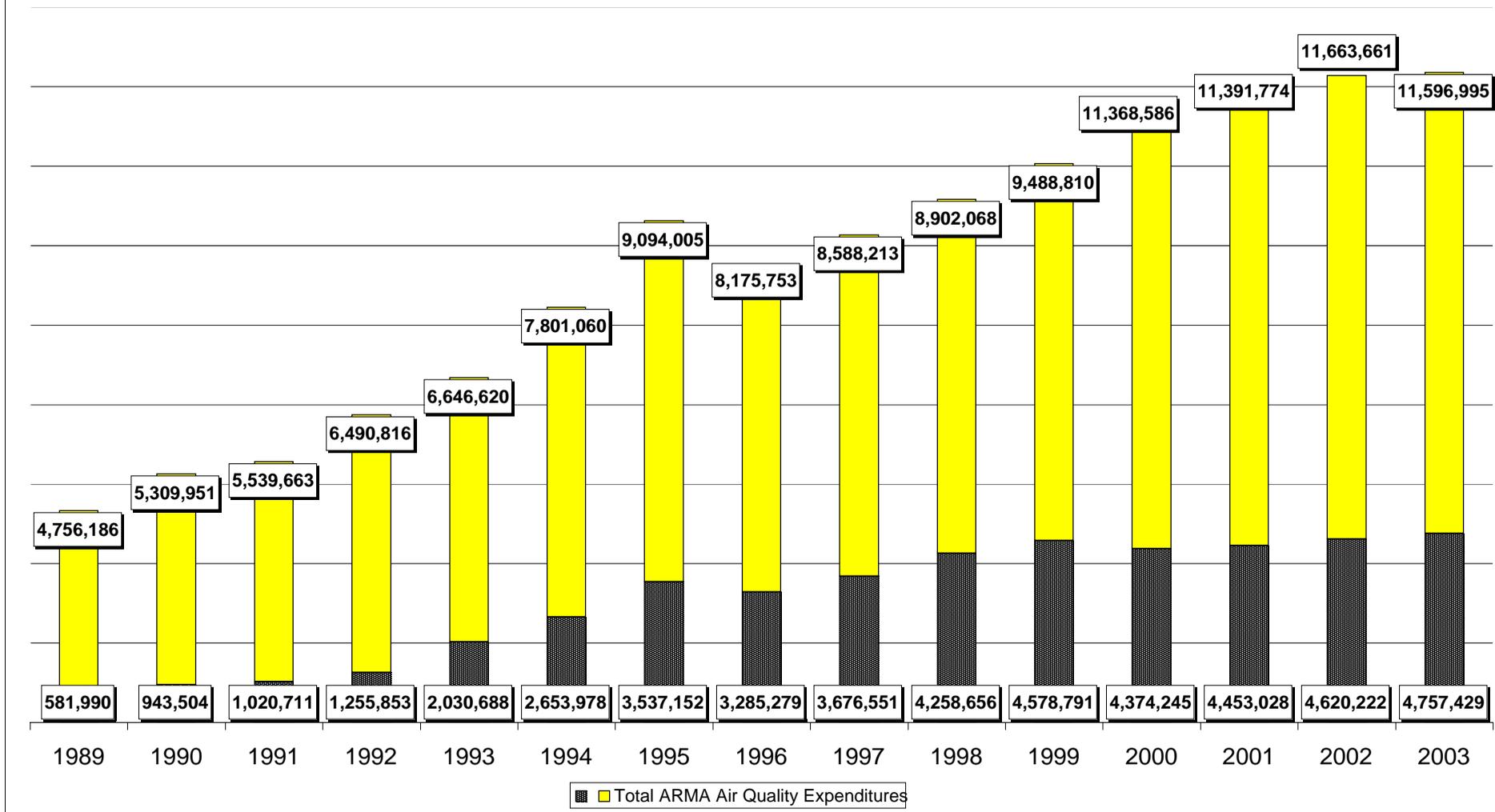
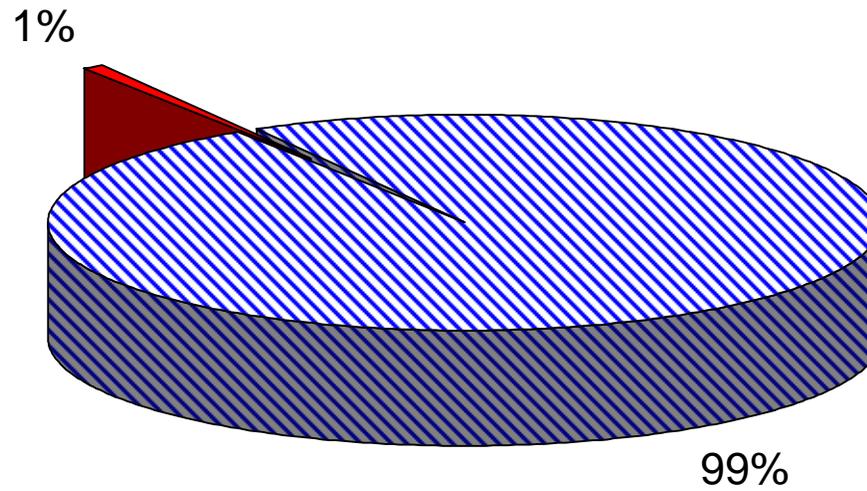


FIGURE 3

CLEAN AIR FUND EXPENDITURES FY 2003

Total Expenditures: \$4,791,908



■ ARMA \$4,757,429 ■ Non-ARMA \$34,479

Non-Arma Uses	\$	31,456	MDE's Permit Center
	\$	3,023	Non-Arma Attorneys
	\$	34,479	Total Non-ARMA

TABLE 1

MARYLAND DEPARTMENT OF THE ENVIRONMENT
 MARYLAND CLEAN AIR FUND
 STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE
 FOR THE FISCAL YEAR ENDED JUNE 30, 2003

REVENUES

Fund Balances June 30, 2002	\$	521,037	
			<u>521,037</u>
Fees		5,045,501	
Penalties		294,769	
			<u>5,340,270</u>
Total FY 2003 Revenues			5,861,307
Indirect costs		(712,705)	
Total Revenues (reduced by indirect costs)			<u><u>5,148,602</u></u>

EXPENDITURES

Direct Expenditures ARMA		4,757,429	
Direct Expenditures MDE Non-ARMA		34,479	
Cancellation of Pre-FY 2003 Encumbrances due to the unanticipated cancellation of projects encumbered at the close of prior fiscal years		(2,221)	
Total Expenditures 2003			<u><u>4,789,687</u></u>
Fund Balance June 30, 2003 (excess of revenues over expenditures)			358,915

TABLE 2

**MARYLAND DEPARTMENT OF THE ENVIRONMENT
MARYLAND CLEAN AIR FUND REPORT
DETAIL STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE
FOR THE FISCAL YEAR ENDED JUNE 30, 2003**

		Percent of Revenues/Direct Expenditures
REVENUES		
Fund Balance as of June 30, 2002	\$ 521,037	
		<u>521,037</u>
Construction Permits issued	429,100	7.4%
State Operating Permits - annual fees	496,429	9.3%
Title V Operating Permits - annual fees	4,009,367	75.1%
Asbestos Licenses issued	93,105	1.7%
Asbestos Training Applications reviewed	17,500	0.3%
Air Penalties	280,601	5.3%
Asbestos Penalties	14,168	0.3%
Total FY 2003 Revenues		<u>5,340,270</u>
Fund Balance Reduction for Prior Years	-	
Revenues after Fund Balance Reduction		<u>5,340,270</u>
Total Revenues		<u>\$ 5,861,307</u>
Indirect costs	(712,705)	
Total Revenues (reduced by indirect costs)		<u>\$ 5,148,602</u>
EXPENDITURES		
Direct Expenditures ARMA		
Salaries and Fringe	3,609,423	76%
Operating Costs	1,148,006	24%
Total Direct Expenditures ARMA		<u>\$ 4,757,429</u>
Direct Expenditures MDE Non-ARMA	34,479	
Cancellation of Pre-FY 2003 Encumbrances	(2,221)	
Total Expenditures		<u>\$ 4,789,687</u>
Fund Balance As Of 6/30/03		<u>\$ 358,915</u>

TABLE 3

**MARYLAND DEPARTMENT OF THE ENVIRONMENT
AIR AND RADIATION MANAGEMENT ADMINISTRATION
MARYLAND CLEAN AIR FUND
SUMMARY OF REVENUE AND EXPENDITURE TRENDS
MOST RECENT FIVE YEAR PERIOD**

<u>REVENUES</u>	<u>FY 1999</u>	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2003</u>
Fees	4,523,787	4,323,988	4,710,071	4,861,298	5,045,501
Penalties	520,951	449,614	362,691	661,610	294,769
Adjustments	(272)				
Prior Year Fund Balance Reduction		(103,739)			
Indirect Costs	(519,645)	(598,914)	(599,387)	(634,390)	(712,705)
Total Revenue	4,524,821	4,070,949	4,473,375	4,888,518	4,627,565
<u>EXPENDITURES</u>					
Direct ARMA	4,578,791	4,374,245	4,453,028	4,620,222	4,757,429
Direct MDE Non-ARMA		154,167	36,531	33,333	34,479
Prior Year Encumbrance Cancellation		(11,714)	(46,358)	(6,014)	(2,221)
Total Expenditure	4,578,791	4,516,698	4,443,201	4,647,541	4,789,687